

News Release



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Labor Department Sues Trustees Of Seven Union Pension And Health Plans Over Investments With Oregon Investment Manager

WASHINGTON--The U.S. Department of Labor today sued the trustees of seven union-sponsored pension and health plans in Ohio and Minnesota for imprudently investing plan assets in risky private placement investments with Capital Consultants LLC. As a result of the investments, the plans suffered substantial losses that jeopardized the benefits of over 19,000 workers.

“The trustees’ actions are abominable. Hardworking men and women trusted these trustees to protect and preserve their union-sponsored pension and health benefits. The trustees abused that trust and thousands of workers saw their retirement security put in jeopardy. The Administration is suing on behalf of these workers to recover as much as possible for the plans and to establish new procedures and controls to ensure that workers’ pension and health plans will not be raided again,” says Secretary of Labor Elaine L. Chao.

Capital Consultants, LLC (CCL) was a registered investment manager that provided investment services to more than 60 primarily union-sponsored pension, health and welfare plan clients governed by federal employee benefits law. In 2000, the department and the Securities and Exchange Commission (SEC) sued CCL and its principals for investing plan assets in a series of imprudent loans, self-dealing and charging excessive fees. In April 2002, the department sued trustees of 10 union plans – mostly on the west coast - for similar violations. As a result of the department’s actions, the court appointed a receiver who has collected more than \$140 million in addition to \$110 million obtained through private litigation.

In 2001, Jeffrey Grayson and his son Barclay Grayson, CCL’s chief executive officer and president respectively, were criminally charged with regard to the improper investments. The son currently is serving a prison sentence.

The Labor Department today filed five separate lawsuits alleging that the trustees violated the Employee Retirement Income Security Act (ERISA) by imprudently authorizing plan assets to be invested in a series of risky private placement investments managed by CCL, including loans to Wilshire Credit Corporation. The seven plans covered over 19,000 participants and had approximately \$793 million in assets as of April 30, 2000.

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Between 1995 and 2000, the trustees allegedly authorized increasing investments of plan assets in private placement investments. Trustees of five plans maintained the private investments with CCL despite warnings by the plans' investment advisors about the illiquid nature, unacceptable collateral and risks associated with the investments. For two of the plans, the trustees failed to adequately monitor or to retain experts qualified to monitor investments made in the private investments by CCL.

In addition, trustees Dennis P. Talbott, Greg Shafranski and Jerry Westerholm are charged with self-dealing for accepting substantial gratuities from CCL for payment of trips, services and other gratuities.

Named as defendants are current and former trustees of the: Tri-County Building Trades Health Fund of Austintown, Ohio in *Chao v. Talbott*; International Brotherhood of Electrical Workers Local 212 Pension Trust Fund of Cincinnati in *Chao v. Bolling*; Electrical Workers Local No. 292 Annuity and Pension Plans of St. Louis Park, Minn. in *Chao v. Shafranski*; Sheet Metal Workers Local Pension Fund in Akron in *Chao v. Derreberry*; and the International Brotherhood of Electrical Workers Local 38 Pension and Health and Welfare Funds of Valley View, Ohio in *Chao v. Chilia*. In addition, the suit charges Monitor Advisory Services, Inc. and its owner Louis C. Gerber as the investment monitors to the IBEW local 212 fund.

The department is seeking court orders to require that defendants restore to the plans any losses and illegal gratuities received by them and to institute new plan procedures and controls relating to plan investments. The suits involving the Tri-County, Sheet Metal Workers and Electrical Workers 292 plans also ask the court to permanently bar defendant trustees Talbott, Shafranski and Westerholm from serving as plan fiduciaries.

The suits were filed in federal district court in Cleveland, Cincinnati and Minneapolis. The cases resulted from investigations conducted by the Cincinnati and Kansas City regional offices of the department's Employee Benefits Security Administration.

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